IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 2675 of 2005

1. Navall Employees Union
and another ..Petitioners

vs.

1. The Union of India & Ors. ..Respondents

Shri C.U.Singh with Shri R.G.Walia for petitioners.
Shri Sureshkumar for respondents.

CORAM: A.P.SHAH &
Dr.D.Y.CHANDRACHUD JJ.
3rd August 2005

P.C.

. The challenge is to the judgment and order passed by the Central Administrative Tribunal dated 10th February, 2005 in Original Application No. 609 of 2002. That Original Application was filed by the petitioners for quashing and setting aside the appointments of respondent nos. 9 to 35 as Master Grade II/Mate on the ground that they were not having requisite qualifications mentioned in the notification inviting applications for filling up the vacancies. The case of the petitioners is that as per SRO No.54/81 for the selection of these posts one should possess atleast two years experience of independently handling a craft of 20 horse-power. Some of the employees were given

Master Grade Certificate in the year 1996-97 and only thereafter they could be treated as eligible for handling the craft of 20 horse-power. Thus, on the date of inviting applications i.e. 23rd January, 1997 none of them have experience of two years. Therefore,the certificates issued in their favour that they possess requisite MMD qualification and 2 years experience of handling the craft of more than 20 horse-power is factually incorrect. Therefore, selection conducted by the competent authority is in violation of SRO as well as conditions mentioned in the advertisement. The Original Application was rejected by the Tribunal by impugned order. Paras 20 and 21 of the judgment of the Tribunal which are material are reproduced below.

> "20. It is not disputed that all the persons mentioned in the impugned order have been selected by direct recruitment and they were possessing certificate of Masters second class ISV. The contentious issue is whether they had two years experience in independently handing craft of 20 Horse Power. The learned Counsel for applicant has contended that as per the provisions contained in Section 27 of the Inland Steam

Vessel Act, 1917, an Inland Steam Vessel having engine of less than 30 National Horse Power shall not proceed on any national voyage unless she has a master person possessing a certificate granted under this act or any certificate referred to in clause (a) of section 26. Section 26, clause (a) the certificate mentioned is a second class masters certificate. The recruitment rules have also a provision for a similar certificate. In view of such provisions the certificate issued by Naval Authorities on 26.11.1997 mentioning that the persons indicated in the list has requisite MMD qualification and two years experience ;of handling crafts of more than 20 Horse Power and, therefore, they qualify to work as Master Grade II/Mate is factually incorrect. We find that the name of the second respondent, Shri V.S.Sarang also figures in this list at serial number (n). Thus he was also declared as having requisite qualifications for appearing in the direct recruitment by the Naval Authorities. Shri V.S.Sarang got disqualified on account of overage and not on account of lack of qualification. We have no material on

record to disbelieve the veracity of a certificate given by the Naval Authorities at the level of Lieutenant Commander. The respondents in reply to this point has also mentioned in the written statement that "all the private respondents possess necessary certificate and required experience as all of them were working with Naval Dockyard Mumbai since 1964 to 1997 and on the date of selection they had all the requisite experience as per SROs 53 and 54 of 1981". The submission made in the written statement filed by the respondents nos. 1 to 16 that "applicants as well as respondents have requisite qualification and experience of handling a craft of 20 HP independently" has not been controverted by the applicant.

21. We are of the view that once an appropriate authority has certified that certain persons possess requisite qualifications, it is not for the Court or Tribunal to go into the details and to verify the same. The Apex Court has also held in the case of Dr.Duryodhan Sahu and Ors. (supra) that it is not for the Court or Tribunal to embark upon an investigation

of its own to ascertain the qualifications of the persons concerned. Moreover, the list of persons declared qualified, the name of the applicant no.2 was also included. In view of this he cannot claim any prejudice against him. Respondents had applied the same yardstick for adjudging the qualifications for the private respondents as they had applied in the case of second applicant. It is also a fact as stated by the respondents that all the private respondents have been working for a very long time and have gained requisite experience. Whether the experience gained by them in actual working was preceded by some other provisional certificate is not our concern. The applicant himself was certified having requisite qualifications along with 40 others which he never disputed. On the basis of this certificate, his case was also examined but he could not be included in the list because of age factor. Therefore, he now cannot challenge the procedure adopted by respondents for working out the length of experience. He, therefore, cannot claim to be a person in the category whose interest has been

adversely affected by the order of the respondents."

2. Shri C.U.Singh, learned counsel appearing for the petitioners contends that in view of the provisions contained in section 27 of the Indian Steam Vessels Act, 1997 the person cannot handle a craft of more than 20 horse power unless he has a certificate granted by a competent authority as mentioned in section 26(a) of the Act. In view of this it was not possible for the private respondents to have two years experience on the date of advertisement since they were issued MMD certificate only in the year 1996-97. Shri C.U.Singh urged that when the private respondents did not have requisite MMD certificate two years prior to the issuance of notification for selection, then how could they independently handle a craft of 20 horse power when it is barred under the Indian Steam Vessels Act, 1917. Therefore, according to learned Counsel appointments of private respondent is in contravention of service Regulations.

3. We find no merit in the submission of the learned Counsel Shri C.U.Singh. In the first place, petitioner no.2 who is supposed to be an

aggrieved party is not eligible for promotion. The name of the second petitioner was included in the list and he did participate in the selection. However, since relaxation in age was given only to the extent of 5 years i.e. 45 years and the second petitioner being above 45 years of age was excluded. Petitioner No.1 is the Union of Employees and cannot be said to be affected party. Secondly, the Tribunal was right in holding that once appropriate authority has certified that certain persons possess requisite qualifications, it is not for the court or Tribunal to go into the details and to verify the same. The private respondents have been working on the post of Master Grade II/Mate since 31st March, 2000 to the satisfaction of their superiors and there have been no complaint about their performance. Under the circumstances, no interference is called for under Articles 226 and 227 of the Constitution. Petition is dismissed.